

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2008-270-W - ORDER NO. 2008-727
NOVEMBER 6, 2008

IN RE: Application of Water Head, LLC for) ORDER GRANTING
Acquisition of Water System at Gauley Falls) ACQUISITION OF
Subdivision, Pickens County, and for) WATER SYSTEM AND
Expansion of Service Area) APPROVING
) EXPANSION OF
) SERVICE TERRITORY

This matter comes before the Public Service Commission of South Carolina ("Commission") as the culmination of Docket No. 2007-64-WS in which the Office of Regulatory Staff ("ORS") alerted the Commission that the water system owned by Stan Brown d/b/a Water Head, LLC ("Brown," "Water Head," or the "Company") was operating as a public utility without the required Certificate of Public Convenience and Necessity. In the previous Docket, ORS asserted that Water Head was providing "public utility" water services, as defined by S.C. Code Ann. § 58-5-10(4) (Supp. 2007), to a subdivision in Pickens County known as the Rock at Jocassee. This subdivision and the Gauley Falls Subdivision are contiguous. Apparently, Water Head provides uncertificated water service to the Rock at Jocassee, while the lawfully operating Piedmont Water Company, Inc. ("Piedmont"), which is also owned by Brown, provides water service to Gauley Falls.

On June 27, 2007, the parties submitted a settlement agreement in Docket No. 2007-64-WS that stipulated Water Head would comply with certification and bond

requirements by August 31, 2007. This settlement agreement included a \$100 per day penalty that Brown assented to pay for each day he remained out of compliance after the dates set forth in the settlement agreement for filing appropriate applications and petitions seeking a Certificate of PC&N and the establishment of rates and charges with the Commission. However, Brown failed to file an application for certification and no performance bond was posted. On May 28, 2008, the Commission asked ORS to investigate. The conclusion of ORS's investigation led to the opening of the current Docket.

On July 11, 2008, an application in the present Docket was filed by Water Head to acquire the assets of Piedmont used to provide potable water to the Gauley Falls Subdivision.¹ This was assigned Docket No. 2008-270-W. In addition, Brown requests an expansion of Piedmont's certificated service area to include the Rock at Jocassee.² Brown states he intends to interconnect Piedmont's facilities with the water system that Water Head operates at The Rock at Jocassee. Notice of this proposal was published on July 26, 2008, in the *Greenville News* newspaper, which serves the area affected by the request, but no interested persons have filed a protest or moved to intervene.

In this process, Water Head also states it will assess the rates and charges that the Commission has previously approved for Piedmont's water services in the Gauley Falls Subdivision. Further, the Company declares that before filing an application for

¹ The record shows that Piedmont provides water service to 32 residential customers in the Gauley Falls Subdivision.

² The record shows that Water Head serves a total of 38 users at the Rock at Jocassee, including nineteen single-family residences, eighteen condominiums or "time-share" units, and a clubhouse.

adjustment of its rates and charges, it will prepare a cost-benefit analysis concerning the possibility of the installation of meters for service to all customers in its system. Prior to filing any application for adjustment in rates and charges, Water Head will submit a copy of the results of such cost benefit analysis to the Office of Regulatory Staff.

The Company also states that it will file a performance bond for the interconnected systems and expanded service area, as required by 26 S.C. Code Ann. Regs. 103-712 (September 28, 2007), and will revise its accounting procedures to maintain its books and records to comply with the requirements of 26 S.C. Code Ann. Regs. 103-719 (September 28, 2007). The Office of Regulatory Staff has completed its review of the matter and does not oppose the application.

We find that Water Head, LLC is a “public utility,” as defined by S.C. Code Ann. § 58-5-10(4) (Supp. 2007), providing water service for compensation to the subdivision known as the Rock at Jocassee in Pickens County, South Carolina. Additionally, we find that Water Head’s application to acquire the assets of Piedmont Water Company, Inc. that comprise the water supply and distribution system used to provide potable water to the Gauley Falls Subdivision is in the public interest and should be approved.

IT IS THEREFORE ORDERED:

1. Water Head’s application to acquire the assets of Piedmont Water Company, Inc. that comprise the water supply and distribution system used to provide potable water to the Gauley Falls Subdivision is approved. Water Head shall charge and collect the rates and charges which the Commission has previously approved for Piedmont's water services in the Gauley Falls Subdivision.

2. Water Head's request to expand Piedmont's certificated service area to include the subdivision known as "The Rock at Jocassee" that is adjacent to and adjoining Piedmont's service area is approved.

3. A performance bond, as required by S.C. Code Ann. 58-5-720 (Supp. 2007) and 26 S.C. Code Ann. Regs. 103-712 (September 28, 2007), is due within 30 days of the date of the receipt of the Order. The amount of this bond shall be \$100,000. The Commission requests ORS to report on Water Head's compliance with this deadline.

4. Water Head shall revise its accounting procedures to maintain its books and records to comply with the requirements of 26 S.C. Code Ann. Regs. 103-719 (September 28, 2007).

5. Water Head shall report the results of its cost benefit analysis concerning the installation of water meters to ORS prior to filing any application for adjustment of its rates and charges.

6. Water Head shall comply with all applicable South Carolina statutes and Commission regulations.

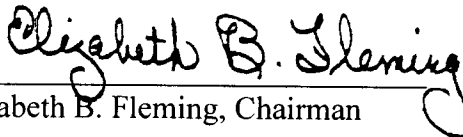
7. Water Head shall meet all statutory and regulatory deadlines, including any deadlines that are specified by ORS, or that are set forth by agreement.

8. ORS is requested to report to the Commission on the status of the late filing monetary penalty of \$100 per day that Brown agreed to pay in the settlement agreement of Docket No. 2007-64-WS. As referenced above, the settlement agreement states that Brown agreed to pay a monetary penalty to be assessed for every day that Brown fails "to meet the dates set forth [in the agreement] for filing appropriate

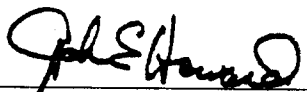
applications and petitions seeking a Certificate of PC&N and the establishment of rates and charges with the Commission in accordance with S.C. Code Ann. §58-5-710 (Supp. 2006).” According to the record, the period of assessment began once Brown failed to file an application for certification on August 31, 2007 in Docket No. 2007-64-WS and continued through the time of his application on July 11, 2008 in the present Docket.

9. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:


Elizabeth B. Fleming, Chairman

ATTEST:



John E. Howard, Vice Chairman
(SEAL)